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Of Attorneys for Defendant Tomahawk Manufacturing

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JAMES B. WOLFF,

Plaintiff,

v.

TOMAHAWK MANUFACTURING, a
Wisconsin corporation,

Defendant.

No. 3:21-cv-00880-SI

**DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

ORAL ARGUMENT REQUESTED

LOCAL RULE 7-1 CERTIFICATION

The parties made a good faith effort through telephone conference to resolve the dispute and have been unable to do so. The parties discussed each claim, defense, or issue that is the subject of this motion.

MOTION FOR SUMMARY JUDGMENT

Pursuant to Federal Rule of Civil Procedure 56, Defendant Tomahawk Manufacturing, Inc. (“Tomahawk”) hereby moves for summary judgment as to all of Plaintiff’s claims. Specifically, Tomahawk moves for summary judgment of Plaintiff’s First Claim for Relief for Breach of Confidentiality Agreement, Plaintiff’s Second Claim for Relief for Whistleblower Retaliation under ORS 659A.199, Plaintiff’s Third Claim for Relief for Disability Discrimination under ORS 659A.112, Plaintiff’s Fourth Claim for Relief for Discrimination Because of Opposition to Unlawful Practice under ORS 659A.030(1)(f), and Plaintiff’s Fifth Claim for Relief for Wrongful Discharge.

Defendant moves for summary judgment of Plaintiff’s First Claim for breach of contract based on the principle of *res judicata*. Defendant moves for summary judgment of Plaintiff’s Second Claim because (1) Plaintiff’s claimed “report” was not made in good faith; (2) Plaintiff cannot demonstrate a right to recovery under the law. Defendant moves for summary judgment of Plaintiff’s Third Claim because (1) Plaintiff was not disabled under the law; (2) all Plaintiff’s requests for accommodation were granted; (3) Plaintiff cannot prove that Defendant discriminated against him based on his disability; and (4) Plaintiff cannot prove that Defendant failed to provide reasonable accommodations. Defendant moves for summary judgment of Plaintiff’s Fourth Claim for discrimination because (1) Plaintiff’s claimed “report” was not made in good faith; (2) Plaintiff cannot demonstrate a right to recovery under the law. Additionally, Defendant moves for summary judgment of Plaintiff’s Fifth Claim for wrongful termination on the independently sufficient grounds that (1) Plaintiff has an adequate statutory remedy and the statutory

claim has been held to be exclusive and (2) Defendant did not wrongfully discharge Plaintiff for any reason other than his inability to work well with co-workers.

In the alternative, Defendant moves for partial summary judgment as to each of the claims and grounds stated above.

Defendant's Motion is supported by the accompanying Memorandum in Support, the Declarations of Robert Gillette, James Sommer, and Brad Nicholson, and the exhibits attached thereto, as well as all other matters properly before the Court.

Submitted:

Dated: December 20, 2022

GORDON REES SCULLY MANSUKHANI,
LLP

By: /s/ Robert L. Gillette, II
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Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on this day, the foregoing document will be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all registered participants.

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DATED: December 20, 2022.

s/ Christine F. Zea

Christine F. Zea, Legal Assistant